

**STATE OF NEW YORK**  
**STATE TAX COMMISSION**

## In the Matter of Petitions

of

**SHIPPING ENTERPRISES OF NEW YORK, INC.**

for redetermination of deficiency of franchise taxes under Article 9-A for fiscal years ended March 31, 1965, March 31, 1966, March 31, 1967 and March 31, 1968.

Shipping Enterprises of New York, Inc. having filed petitions for redetermination of deficiency of franchise tax under Article 9-A of the tax law, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on February 10, 1971 before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayer was represented by Nunziato E. Romano, secretary of the corporation, and Alexander W. Faber, Certified Public Accountant, of A. W. Faber & Company, auditors for the taxpayer, and the record having been duly examined and considered by the State Tax Commission,

**It is hereby found:**

(1) The taxpayer was incorporated under the laws of New York on May 31, 1961, and acts as a brokerage agent for shipowners who are engaged in transporting cargoes in foreign commerce to and from the United States. It negotiates charter agreements for shipowners for transportation of cargoes from domestic ports and, in connection therewith, arranges for husbanding of the ship and its clearance for the foreign port. Taxpayer is paid a percentage of the charter fee by the shipowner as commission for the services it performs. Taxpayer

filed its returns starting with federal taxable income on page one in arriving at entire net income, but attached a rider excluding commissions received on charter fees less expenses attributable thereto, in computing its tax liability.

(2) The taxpayer earns other commissions and fees which it concedes are includible in entire net income.

(3) On January 15, 1969, the Corporation Tax Bureau issued notices of deficiency using entire net income as shown on page one of the taxpayer's returns. The deficiencies for fiscal years ended March 31, 1965 and March 31, 1968 were computed by applying the statutory rate to entire net income while deficiencies for fiscal years ended March 31, 1966 and March 31, 1967 were computed by the alternative method provided in Section 210.1(a)(3). Deficiencies are as follows:

	<u>3/31/65</u>	<u>3/31/66</u>	<u>3/31/67</u>	<u>3/31/68</u>
Tax due	\$1,091.31	\$895.85	\$579.77	\$446.20
Tax paid	507.46	155.93	102.09	219.12
Deficiency	583.85	739.92	477.68	227.08

(4) Petitions for redetermination of deficiency were timely filed.

(5) Section 208.9 of the tax law states, in part, as follows:

"The term 'entire net income' means total net income from all sources, which shall be presumably the same as the entire taxable income which the taxpayer is required to report to the United States treasury department \* \* \*."

Upon the foregoing findings and all the evidence presented, the State Tax Commission hereby

**DECIDES:**

(A) Section 208.9 of the tax law, as indicated at (5) above, provides that income from all sources should be

included in computing entire net income and such income should be in conformity with taxable income required to be reported for federal income tax purposes.

(B) That, accordingly, the notices of deficiency issued on January 15, 1969 are affirmed together with interest and additional charges in accordance with Sections 1084 and 1085 of Article 27 of the tax law.

Dated: Albany, New York  
this 30<sup>th</sup> day of April 1971.

STATE TAX COMMISSION

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner